

3.908-6 Remedies.

(a) Agency response to Inspector General report. Not later than 30 days after receiving an Inspector General report in accordance with [41 U.S.C. 4712](#), the head of the agency shall-

(1) Determine whether sufficient basis exists to conclude that the contractor or subcontractor has subjected the employee who submitted the complaint to a reprisal as prohibited by [3.908-3](#); and

(2) Issue an order denying relief or take one or more of the following actions:

(i) Order the contractor to take affirmative action to abate the reprisal.

(ii) Order the contractor or subcontractor to reinstate the complainant-employee to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(iii) Order the contractor or subcontractor to pay the complainant-employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(b) Complainant's right to go to court. If the head of the agency issues an order denying relief or has not issued an order within 210 days after the submission of the complaint or within 30 days after the expiration of an extension of time granted in accordance with [41 U.S.C. 4712\(b\)\(2\)\(B\)](#) for the submission of the Inspector General's report on the investigative findings of the complaint to the head of the agency, the contractor or subcontractor, and the complainant, and there is no showing that such delay is due to the bad faith of the complainant-

(1) The complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint; and

(2) The complainant may bring a de novo action at law or equity against the contractor or subcontractor to seek compensatory damages and other relief available under [41 U.S.C. 4712](#) in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this authority may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

(c) Admissibility in evidence. An Inspector General determination and an agency head order denying relief under this section shall be admissible in evidence in any de novo action at law or equity brought pursuant to [41 U.S.C. 4712](#).

(d) No waiver. The rights and remedies provided for in [41 U.S.C. 4712](#) may not be waived by any agreement, policy, form, or condition of employment.

Parent topic: [3.908 Pilot program for enhancement of contractor employee whistleblower protections.](#)